

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JOSE FIGUEROA,

Plaintiff,

vs.

ZENON CHERNYK, KHALIL SALIBA,
A & D WINE CORP. and BAR VERDE, LLC,

Defendants.
-----X

Case No.:

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 12-14-2018

CONSENT DECREE

This Consent Decree is entered into by and between JOSE FIGUEROA individually, hereinafter sometimes referenced to as "Plaintiff" on the one hand, and ZENON CHERNYK, KHALIL SALIBA, A & D WINE CORP. and BAR VERDE, LLC, Defendants, hereinafter sometimes referenced to as "Defendants", on the other, by and through their undersigned counsel. Plaintiff and Defendants, collectively, are hereinafter sometimes referred to as the Parties".

WHEREAS, Defendants own and operate the property at 65 Second Avenue, New York New York, 10003 (the Facility) or are the owners of the improvements of the Subject Facility operating as a Restaurant (the "Restaurant"). Plaintiff claims that there are architectural barriers existing at the Facility that constitute violations of the Americans with Disabilities Act and New York State Human Rights Law and New York City Human Rights Law that unlawfully limit Plaintiff's use of the property; and

WHEREAS, Defendants have made certain modifications to the Facility and the parties have confirmed that those modifications have been completed; and

WHEREAS, Defendants make no admission of liability with respect to any allegation in the Complaint or the violation of any law, statute, ordinance or regulation, including, but not

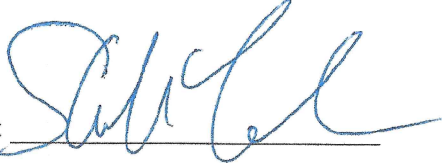
limited to, the Americans with Disabilities Act, the Americans with Disabilities Act Accessibility Guidelines or the New York Accessibility Code and Building Code, or that Defendants engaged in discrimination against Plaintiff or any other persons so situated, but Plaintiff and Defendants desire to avoid further expense, time effort and uncertainty with regard to this litigation; and finally resolve all claims and disputes between them regarding the foregoing matters.

NOW, THEREFORE, in consideration of the mutual promises and agreements set forth herein, the sufficiency of which is hereby acknowledged, the Parties agree as follows and the Court finds appropriate, and therefore it is ORDERED, ADJUDGED AND DECREED that:

1. This Consent Decree resolves all issues and claims alleged between and among the Parties in this action.
2. Defendants have completed modifications and removed barriers at the Facility to the extent readily achievable as required by the ADA and shall maintain those modifications in reasonable order during their ownership or operation of the Restaurant.
3. The Parties have agreed that monetary compensation shall be paid in resolution of all claims in this action, including any claim for compensatory or other damages, litigation expenses, attorneys' fees or costs, pursuant to a separate and confidential agreement dated as of this date and signed by counsel as authorized representatives of the Parties.
4. This Consent Decree shall be binding upon and inure to the benefit of each of the Parties, as well as their successors and assigns.
5. This action shall be dismissed with prejudice, all Parties responsible for their own attorney fees and costs. The Court retains jurisdiction over the Parties for the purpose of enforcement of this Consent Decree.
6. This Consent Decree may be executed in one or more counterparts, and each executed

copy shall be deemed and original and shall be binding on all parties hereto. An electronically transmitted signature shall be deemed as legally binding as an original signature.

BY CONSENT:

By: 

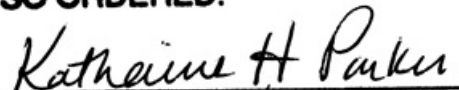
Stuart H. Finkelstein, Esq.
FINKELSTEIN LAW GROUP, PLLC
Attorney for Plaintiff
Syosset, New York 11791
Tel: (718) 261-4900
Dated: 12/12/18

By: 

Paul A. Rachmuth, Esq.
Attorney for Defendant
265 Sunrise Highway
Rockville Center, New York 11570
Tel: (516) 330-0170
Dated: 12/12/2018

IT IS SO ORDERED this 14 day of December, 2018:

SO ORDERED:


HON. KATHARINE H. PARKER
UNITED STATES MAGISTRATE JUDGE